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07.04.2022
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WPA No.5354 of 2022

Shantanu Sekhar Pradhan
Vs.
The State of West Bengal and others

Mr. Sanjib Kumar Mal,
Mrs. Gitashree Mistry
.... for the petitioner

Mr. Amal Kr. Sen,
Mr. Swapan Kr. Pal
.... for the State

Mr. S.N. Mukherjee,
Mr. Sk. Samim Akhter
.... for the respondent no.5

Learned counsel for the petitioner contends that despite the petitioner having stage carriage permit for a particular route since the year 2016, and a revised time-table being issued by the authorities to the petitioner, such time-table is sought to be cancelled on the ground that there was a clash between the time-tables of the petitioner and the private respondent.

However, learned counsel for the petitioner reiterates that the revised time-table issued by the authority to the private respondent was also subsequent to that of the petitioner, that is, on October 7, 2021, which is preceded by September 29,

2021, the date of issuance of revised time-table to the petitioner.

Learned counsel for the private respondent indicates that the petitioner had not been adhering to the schedule given to the petitioner. As such, the authorities were well within their jurisdiction to observe that there was a clash between the rival time-tables of the petitioner and the private respondent. Since the private respondent was willing to run the stage carriage adhering to the route even in respect of the three points regarding which there was clash, that, is, Contai, Henria and Mecheda, there was no illegality or irregularity in the refusal by the authorities to grant extension of the revised time-table to the petitioner.

Learned counsel appearing for the respondent-authorities submits that it is within the discretion of the Administration to alter the time-tables of the different routes, subject to exigencies which may arise. It is further submitted that Rule 119 of the West Bengal Motor Vehicles Rules, 1989 empowers the authority to settle such issues if a clash arises between two rival time-tables.

Upon hearing learned counsel for the parties and perusing the materials on record, it is revealed that in the impugned order of the respondent-authorities, appearing as Annexure-P/8 at page-34 of

the writ petition, that the said order was extremely cryptic as regards the reason for accepting the objection of the private respondent in precedence over that taken by the petitioner.

It is seen from the said order that the authority observed that there was a serious clash at the point of alignments of Contai, Henria and Mecheda. Thereafter, the respondent-authorities placed reliance on a condition stipulated in the declaration given by the petitioner that in the event of any future complaint against the new time-table, the petitioner would revert back to his original time-table and he must obey the STA's decision.

However, since a specific contention has been raised by the private respondent as regards the petitioner having failed to adhere to the time-table issued to the petitioner prior to the private respondent, the authority was required to specifically deal with such objection to renewal and to give reasons as to why the private respondent's objection was accepted over that of the petitioner.

The relevant point which falls for consideration is, who had priority in time as regards the timings as reflected in the time-tables of the routes, in respect of the three points of alignments, that is, Contai, Henria and Mecheda.

It is obvious that the party whose timing in respect of such aligned points, as reflected from their respective time-tables, was prior on point of time ought to prevail over that which was issued later.

It transpires from the records that the petitioner was issued the revised time-table on September 29, 2021 (Annexure-P/2 at page-26 of the writ petition).

On the other hand, the time-table of the private respondent was issued on October 7, 2021 (Annexure-P/3 at page-27 of the writ petition).

The renewal of the revised time-table of the petitioner was refused. In doing so, the authorities had to ascertain first as to whom, among the petitioner and the private respondent, was allotted the disputed timings of arrival and departure in respect of the three points of alignment, that is, Contai, Henria and Mecheda. To be more precise, it was to be enquired into as to whether, on the date when the petitioner had been issued the revised time-table (September 29, 2021), the private respondent had already been allotted a time-table carrying the same timings for the three points of alignment. If so, then the private respondent would be entitled to get precedence; if not, then vice versa.

It was for the authorities to decide in favour of the allottee of the chronologically prior time-table, of

course, subject to other allegations which might have been raised by the petitioner and the private respondent against each other, which may also be relevant to the issue.

In such view of the matter, the impugned order of the respondent-authorities cannot stand the scrutiny of constitutional review.

Accordingly, WPA No.5354 of 2022 is disposed of, thereby setting aside the impugned order (of which the date of hearing has been mentioned to be February 7, 2022), as reflected in Annexure-P/8 at page-34 of the writ petition and directing the respondent no.3 to rehear the parties, that is, the petitioner and the private respondent and to decide afresh the objections of the petitioner and the private respondent against each other and consequentially as to who would be allotted the suggested time-tables, keeping in view the arrival and departure timings at the Contai, Henria and Mecheda points of alignment. Such adjudication shall be in accordance with law and in the light of the observations made in this order.

The respondent no.3 shall endeavour to complete such exercise and convey its decision to the petitioner and the private respondent as expeditiously as possible, preferably within May 07, 2022.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)